

Module 5: Overview of a VESCP

Module 5 Objectives

After completing this module, you will be able to:

- Discuss the Virginia Erosion and Sediment Control Program (VESCP) process from conception to completion of a land-disturbing activity
- Identify the reporting requirements of a VESCP and the program review process

Module 5 Content

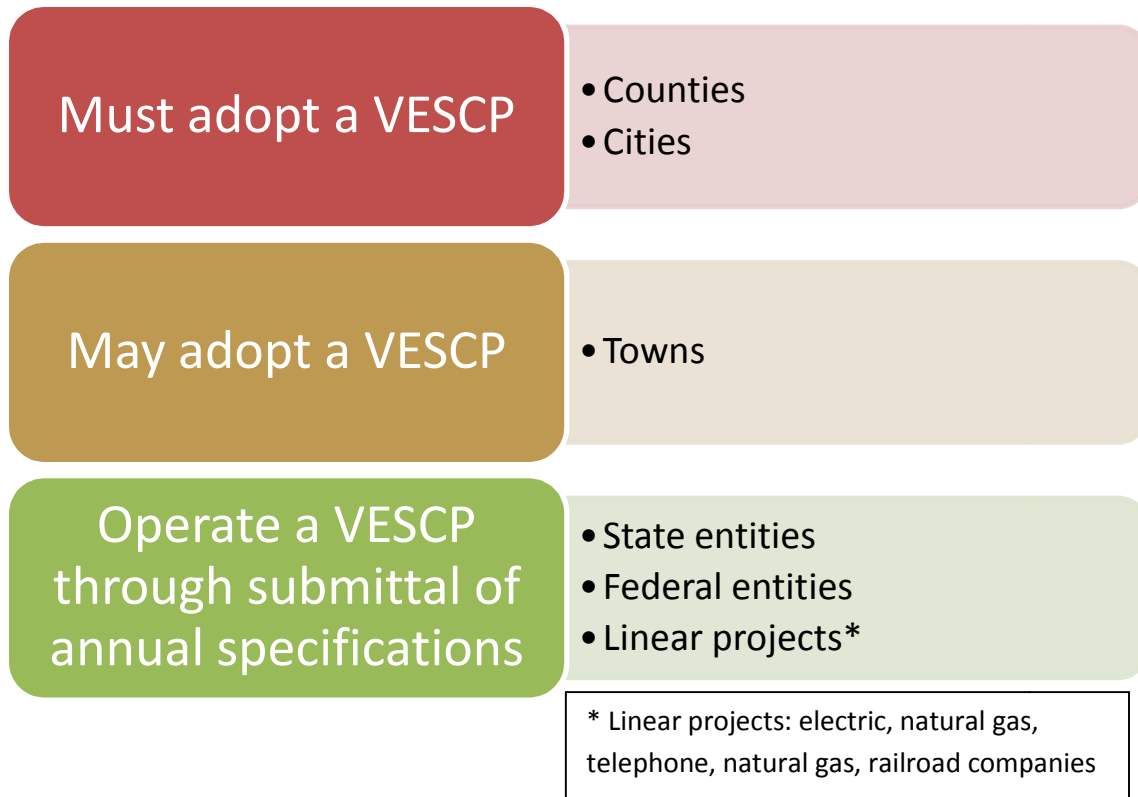
5a. Managing a VESCP

5b. VESCP Process

5.a Managing a VESCP

Introduction

As mentioned in the law section (Module 3), the following entities in Virginia must of may adopt a VESCP ([§62.1-44.15:54](#)).



DEQ is required by law to conduct periodic compliance reviews of the VESCP.

The regulations (9VAC25-840-65) specify certain reporting requirements: “Each VESCP authority shall report to the department, in a method such as an online reporting system and on a time schedule established by the department, a listing of each land-disturbing activity for which a plan has been approved.”

While this regulation primarily sets out the program criteria, there is also an interface with DEQ thru reviews, evaluations, and initiation of corrective actions.

VESCP Minimum Program Criteria: 9VAC25-840-90

The regulations spell out the minimum criteria a VESCP must comply with and the duties DEQ has in reviewing VESCPs

VESCP need to address the following items:

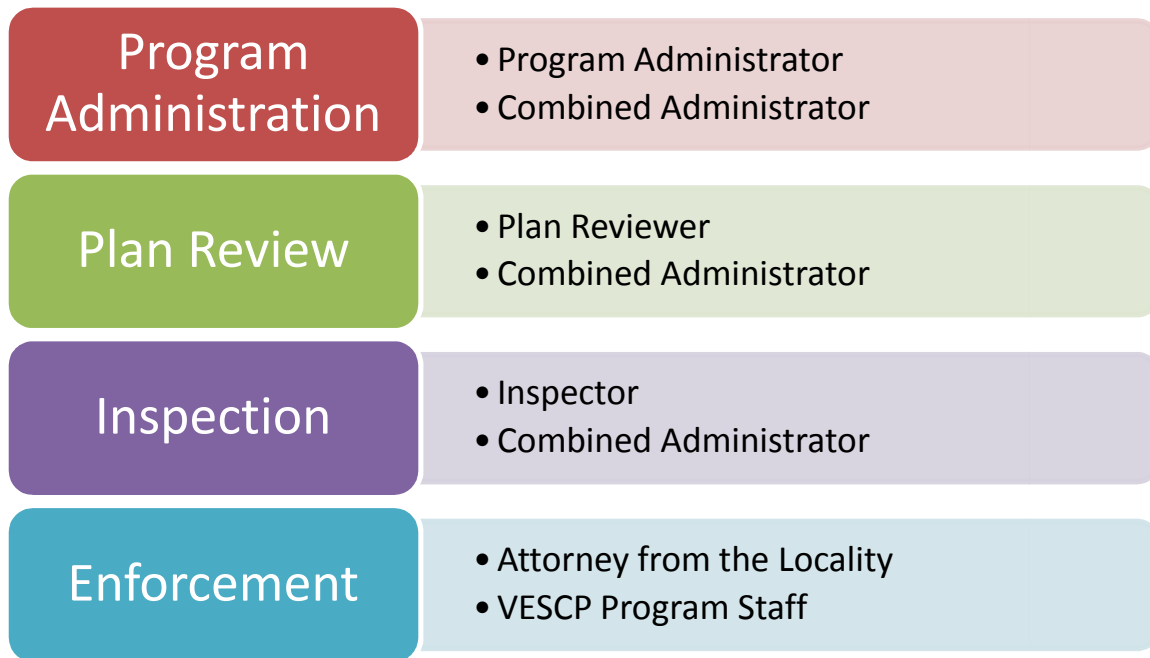
Each program must contain an ordinance or other appropriate document(s) adopted by the VESCP authority. Such document or documents must be consistent with the Act and this chapter, including the following criteria:

- 1) The document or documents shall include or reference the definition of land-disturbing activity including exemptions, as well as any other significant terms, as necessary to produce an effective VESCP.
- 2) The document or documents shall identify the VESCP authority and any soil and water conservation district, adjacent locality, or other public or private entities that the VESCP authority entered into agreements or contracts with to assist with carrying out the provisions of the Act and this chapter, and must include the requirements and design standards to be used in the program.
- 3) The document or documents shall include procedures for submission and approval of plans, issuance of permits, monitoring and inspections of land-disturbing activities. The position, agency, department, or other party responsible for conducting inspections shall be identified. The VESCP authority shall maintain, either on-site or in VESCP files, a copy of the approved plan and a record of inspections for each active land-disturbing activity.
- 4) Each VESCP operated by a county, city, or town shall include provisions for the integration of the VESCP with Virginia stormwater management, flood insurance, flood plain management, and other programs requiring compliance prior to authorizing a land-disturbing activity in order to make the submission and approval of plans, issuance of permits, payment of fees, and coordination of inspection and enforcement activities more convenient and efficient both for the local governments and those responsible for compliance with the programs.

- 5) The VESCP authority must take appropriate enforcement actions, where authorized to do so, to achieve compliance with the program and maintain a record of enforcement actions for all active land-disturbing activities.

Parts of a VESCP

A VESCP has 4 parts; these parts are staffed by specific roles:



This figure shows three essential staff individuals in the VESCP: program administrator, plan reviewer, and project inspector. In some cases, a combined administrator can function in all three capacities. Specific duties of the VESCP staff are listed below:

Program administrator

- Ensures plan review, approval, inspections, and enforcement actions are properly conducted
- Completes annual report
- Manages long-term maintenance agreements
- Coordinates enforcement proceedings
- Keeps records
- Collects fees
- Updates local ordinances as needed

Plan Reviewer

- Responsible for review of erosion and sediment control plans to ensure they adhere to the Regulations, Minimum Standards, design criteria and local ordinance(s)

Inspector

- Conducts regular inspections of active construction sites to ensure proper construction, function and maintenance of BMPs and other erosion and sediment control measures
- Documents inspections
- Initiates enforcement action when needed
- Ensures compliance to correct deficiencies or violations

Combined Administrator

- Responsible for performing the combined duties of a program administrator, plan reviewer, and project inspector
- The Combined Administrator is an individual trained in all three disciplines and she/he can function in all three slots.

DEQ Compliance Review Responsibilities

The department shall periodically conduct a comprehensive review and evaluation of local programs for effectiveness in carrying out the Act. *The department will coordinate the review with its other program reviews for the same entity to avoid redundancy.* The review and evaluation of a local program shall consist of the following:

- 1) consultation with the local program administrator or designee or designees;
- 2) review of the local ordinance and other applicable documents;
- 3) review of plans approved by the program;
- 4) inspection of regulated activities; and
- 5) review of enforcement actions where authorized to do so.

If deficiencies noted in the review will cause the erosion and sediment control program to be inconsistent with the state program and this chapter, the board shall provide the VESCP

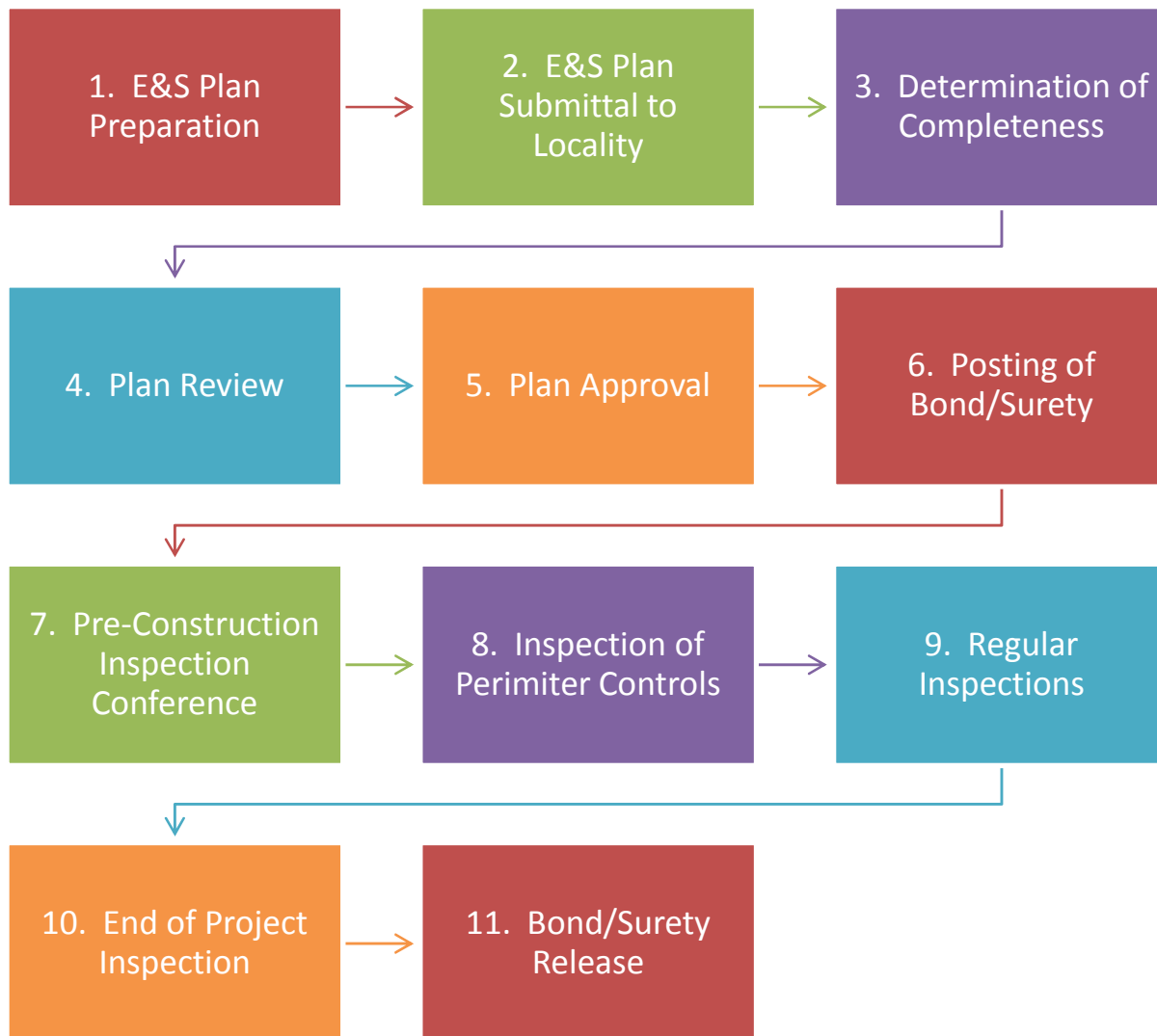
authority with a copy of its decision that specifies the deficiencies, action needed to be taken, and an approved corrective action plan and schedule required to attain the minimum standard of effectiveness.

If the VESCP authority hasn't implemented necessary compliance actions identified by the board within the corrective action schedule, or such additional period as is granted to complete the implementation of the corrective action, the board shall have authority to:

- 1) issue a special order to any VESCP imposing a civil penalty set out in §62.1-44.15:54 of the Act or
- 2) revoke its approval of the VESCP. The Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia) shall govern the review activities and proceedings of the board and the judicial review thereof.
- 3) In lieu of issuing a special order or revoking the program, the board is authorized to take legal action against a VESCP to ensure compliance.

5b. The VESCP Process

The following flow chart illustrates the VESCP process from conception to the end of land disturbance.



It is important to note that with the passage on the VSMP laws and regulations that an approved Erosion and Sediment Control Plan should be part of a SWPPP that needs to be approved by the VSMP, and that there will be two types of inspections (discussed below).

Step 1. E&S Plan Preparation

Before starting a land-disturbing activity (LDA), an operator must complete an Erosion and Sediment Control Plan and submit it to the locality (Step 2). Parts of this plan are a narrative and illustrative plan, and possibly any other items such as:

- A long term maintenance plan for the stormwater BMPs (for grandfathered projects and projects ranging from 10,000 ft.² to 1 acre);
- Permission to conduct stream improvements on the property of others;
- Detailed surveys of channels to determine channel adequacy.

Step 2. E&S Plan Submittal to the Locality

The operator must submit the erosion and sediment control plan to the VESCP authority for review and approval and the stormwater management plan to the VSMP authority for review and approval.

Step 3. Determination of Completeness

The VESCP has no extra days to review the plan for completeness. This should be part of the 60 day review period detailed in §62.1-44.15:55.

Step 4. Plan Review

While the VESCP has 60 day to grant approval of an E&S Plan as detailed in §62.1-44.15:55, inadequacy of the plan and written intention to disapprove a plan must be given to the project proponent within 45 day. When a plan is disapproved the subsequent review period will be 45 days.

Step 5. Plan Approval

The project proponent is required to provide the name and number of the person who will be the designated RLD on the project at time of plan approval.

Step 6. Posting of Bond/Surety

At the time of Plan Approval, the locality may require the posting of a bond or a surety as per §62.1-44.15:57.

Step 7. The Pre-Construction Conference

This is an optional step, but generally prior to the start of land disturbing activities (construction) it is recommended for the regular E&S inspector to meet with project personnel to detail expectations, inspection frequency and review the approved plan. At that point it is recommended that all parties involved walk the perimeter of the proposed LDA to review any environmentally sensitive area on and off-site including streams, wetlands, steep slopes, etc (potential erosion impact areas). After this inspection the inspector gives her/his permission to construct the perimeter controls.

Step 8. Inspection of the Perimeter Controls

Per MS-4, perimeter controls need to be placed prior to the start of land disturbing activities. Per MS-5, some of these perimeter controls need to be stabilized immediately after construction.

Step 9. Regular Inspections

Per 9VAC25-840-60 all projects will need to be inspected. The inspection sequence is every 2 weeks or within 24 hours of a runoff producing rainfall event.

An alternative inspection program may allow a different inspection sequence. Inspections are done to *“insure continued performance of their intended function.”*

Note that a LDA will require two types of inspections (1) the regular E&S inspections and the VSMP inspections. The VSMP law and regulations require that during construction, the VSMP authority (inspector) must periodically inspect ([§62.1-44.15:37](#)) the land-disturbing activity for:

- Compliance with the approved erosion and sediment control plan
- Compliance with the approved stormwater management plan

While VSMP inspections are to be conducted periodically, E&S inspection frequency is more stringent. Moreover, E&S inspectors are not qualified to conduct VSMP inspections, unless certified; however, VSMP inspectors are allowed to do E&S inspections during their VSMP inspection without being certified.

The inspectors and program administrator work together to carry out enforcement actions that may become necessary should the work not proceed in accordance with the approved plan.

Step 10. Final Inspection

MS-3 details that the site needs to have a permanent vegetative cover that is self-sustaining before considered stabilized and the performance bond can be released.

Step 11. Bond/Surety Release

Bond needs to be released within 60 days of final stabilization. MS-7 provides an exception for cut-and-fill slopes which may require additional stabilization when observed to be eroding within one year of final stabilization.